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6 *Attorneys for Defendant:*  
*Federal National Mortgage Association*

7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9 **SPRINGLAND VILLAGE HOMEOWNERS**  
ASSOCIATION, a Nevada Non-Profit  
10 Cooperative Corporation,

11 **Plaintiff,**

12 **v.**

13 **JENNIE M. PEARMAN, et al.,**

14 **Defendants.**

15 **FEDERAL NATIONAL MORTGAGE**  
ASSOCIATION,

16 **Plaintiff,**

17 **v.**

18 **DWIGHT CARLSON AS TRUSTEE FOR**  
19 **PYRAMID TRIBE TR-116,**

20 **Defendant.**

21 *And Related Counterclaims.*

Lead Case No. 3:16-CV-00423-MMD-WGC  
Member Case No. 3:16-cv-00520-MMD-WGC

**STIPULATION AND ORDER TO  
REMAND LEAD INTERPLEADER CASE**

22  
23 Defendant in Lead Case **FEDERAL NATIONAL MORTGAGE ASSOCIATION**  
24 **("Fannie Mae")** and Plaintiff in Lead Case **SPRINGLAND VILLAGE HOMEOWNERS**  
25 **ASSOCIATION ("Springland")** by and through their respective attorneys of record, hereby  
26 stipulate and agree to the remand of the Lead Interpleader Case as follows:

27 1. The Lead Case is an interpleader action originally filed in the Second Judicial  
28 District Court of Nevada (Washoe County) on May 11, 2016, which seeks to disburse proceeds

1 from an NRS 116 foreclosure sale of the real property located at 2402 Sunny Slope Drive, Unit  
2 9, Sparks, Nevada 89434 (the "Property") occurring on or about January 22, 2016 (hereinafter  
3 the "Lead Interpleader Case").

4 2. Fannie Mae removed the Lead Interpleader Case to this Court on July 15, 2016 on  
5 the basis of Fannie Mae's charter and the Ninth Circuit decision in *Lightfoot v. Cendant*  
6 *Mortgage Corporation*, 769 F.3d 681, 682 (9<sup>th</sup> Cir. 2014). (See Lead Interpleader Case ECF  
7 No. 1).

8 3. On September 2, 2016, Fannie Mae filed a separate lawsuit captioned, *Federal*  
9 *National Mortgage Association v. Dwight Carlson as Trustee for Pyramid Tribe TR-116* which  
10 is Member Case No. 3:16-cv-00520-MMD-WGC (the "Member Title Case").

11 4. The Member Title Case was an action for declaratory relief and quiet title against  
12 Dwight Carlson as Trustee for Pyramid Tribe TR-116 ("Pyramid Tribe") seeking to declare  
13 Fannie Mae's first Deed of Trust as a valid remaining encumbrance on the Property. Pyramid  
14 Tribe was the purchaser of the Property at the same NRS 116 foreclosure sale at issue in the  
15 Lead Interpleader Case. Fannie Mae alleged that this Court had subject matter jurisdiction based  
16 on federal question jurisdiction arising under 12 U.S.C. § 4617(j)(3) (the "Federal Foreclosure  
17 Bar") and based on diversity jurisdiction. (See Member Title Case ECF No. 1).

18 5. On September 7, 2016, Fannie Mae filed a Notice of Related case in both the  
19 Member Title Case (ECF No. 4) and the Lead Interpleader Case (ECF No. 11) wherein Fannie  
20 Mae stated that it would be desirable for the same district judge and magistrate judge to preside  
21 over both actions to ensure a coordinated timing and sequence of adjudicating title issues in the  
22 Member Title Case and the ultimate disbursement of proceeds from the same NRS 116  
23 foreclosure sale in the Lead Interpleader Case.

24 6. On October 3, 2016, the Court entered a Reassignment Order wherein the  
25 Member Title Case was assigned to the same district judge and magistrate judge. (See Member  
26 Title Case ECF No. 8).

27 7. On January 20, 2017, the Court entered an Order in the Lead Interpleader Case  
28 requesting that Fannie Mae show cause why the Lead Interpleader Case should not be remanded

1 for lack of jurisdiction because of the U.S. Supreme Court's overturning of the Ninth Circuit  
2 decision in *Lightfoot*. (See Lead Interpleader Case ECF No. 24).

3 8. On February 6, 2017, Fannie Mae filed a Response to Order conceding that the  
4 Lead Interpleader Case should be remanded. However, Fannie Mae asserted in the Response  
5 that the Court maintained subject matter jurisdiction over the Member Title Case under the non-  
6 merger rule and specifically because the Court had both federal question jurisdiction and  
7 diversity jurisdiction over the Member Title Case. (See Lead Interpleader Case ECF No. 25,  
8 citing *Johnson v. Manhattan Ry. Co.*, 289 U.S. 479, 496-97 (1933); *Continental Airlines v.*  
9 *Goodyear Tire & Rubber Co.*, 819 F.2d 1519, 1523 n.1 (9<sup>th</sup> Cir. 1987); *Cella v. Togum*, 173 F.3d  
10 909, 912 (3<sup>rd</sup> Cir. 1999) (holding the district court erred in remanding both consolidated cases  
11 when it had diversity jurisdiction over one of them)).

12 9. No subsequent order was issued remanding the Lead Interpleader Case back to  
13 state court.

14 10. On July 17, 2017, Fannie Mae filed the same Motion for Summary Judgment in  
15 both the Lead Interpleader Case (ECF No. 28) and the Member Title Case (ECF No. 17) solely  
16 on the basis that 12 U.S.C. § 4617(j)(3) protected Fannie Mae's Deed of Trust from being  
17 extinguished by the NRS 116 foreclosure sale.

18 11. The Motion for Summary Judgment requested that Fannie Mae's request for quiet  
19 title or declaratory relief be granted insofar as any interest in the Property of Member Title Case  
20 Defendant Pyramid Tribe is subject to Fannie Mae's Deed of Trust pursuant to the Federal  
21 Foreclosure Bar. However, the Motion for Summary Judgment did not address or contain a  
22 proposed distribution of the proceeds from the NRS 116 foreclosure sale.

23 12. On January 5, 2018, the Court entered an Order consolidating the Lead  
24 Interpleader Case and the Member Title Case. (See Lead Interpleader Case ECF No. 33).

25 13. Following consolidation, on January 10, 2018, the Court entered an Order, and  
26 subsequent Judgment, granting Fannie Mae's Motion for Summary Judgment finding that the  
27 Federal Foreclosure Bar protected Fannie Mae's Deed of Trust from extinguishment and that  
28 Fannie Mae's Deed of Trust continues to encumber the Property. However, the Order did not

1 contain a decree or declaration as to how the proceeds from the NRS 116 foreclosure sale should  
2 be distributed. (See Lead Interpleader Case ECF No. 34, 35).

3 14. On June 20, 2018, the Court entered an Order granting Fannie Mae and  
4 Springland's Stipulation to Re-Open Lead Interpleader Case. (See Lead Case ECF No. 37). The  
5 Order further directed Fannie Mae and Springland to submit a further stipulation or status report  
6 as to how the Lead Interpleader should proceed. (See *id.*).

7 15. Based upon the foregoing, Fannie Mae and Springland stipulate and agree that the  
8 Lead Interpleader Case should be remanded back to the Second Judicial District Court of Nevada  
9 in and for Washoe County for further proceedings as to the interpleader and/or distribution of the  
10 surplus proceeds from the NRS 116 foreclosure sale at issue in this case.

11 16. This Stipulation shall not impact or affect this Court's Order (Lead Interpleader  
12 Case ECF No. 34) and/or Judgment (Lead Interpleader Case ECF No. 35). Fannie Mae  
13 maintains that the Court has separate subject matter jurisdiction over the Member Title Case  
14 under both diversity jurisdiction and federal question jurisdiction.

15 17. Fannie Mae and Springland further stipulate and agree to bear their own fees and  
16 costs of suit as to each other upon remand of the Lead Interpleader Case, however, this  
17 stipulation and agreement shall not prejudice or affect Springland's right to recover the entirety  
18 of its fees and costs from the surplus proceeds as may be permitted under Nevada law.

19 **IT IS SO STIPULATED AND AGREED.**

20 DATED this 19<sup>th</sup> day of July, 2018.

21 ALDRIDGE PITE, LLP

KERN & ASSOCIATES, LTD.

22 /s/ Jory C. Garabedian

/s/ Karen M. Ayarbe

23 Jory C. Garabedian  
24 Nevada Bar No. 10352  
25 Attorney for Defendant  
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Springland Village Homeowners  
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1. The Lead Interpleader Case shall be remanded back to the Second Judicial District Court of Nevada in and for Washoe County for further proceedings as to the interpleader and/or distribution of surplus proceeds from the NRS 116 foreclosure sale at issue in this case;
2. The Order (Lead Interpleader Case ECF No. 34), and subsequent Judgment (Lead Interpleader Case ECF No. 35), granting Fannie Mae's Motion for Summary Judgment shall not be impacted or affected by the parties' Stipulation and/or this Order to remand; ; and
3. Fannie Mae and Springland shall bear their own fees and costs of suit as to each other upon remand of the Lead Interpleader Case, however, this Stipulation and Order shall not prejudice or affect Springland's right to recover the entirety of its fees and costs from the surplus proceeds as may be permitted under Nevada law.



**Dated: July 23, 2018**